

**STATE OF CALIFORNIA
ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION**

Implementation of Renewables Portfolio Standard)
Legislation (Public Utilities Code Sections 381,)
383.5, 399.11 through 399.15 and 445; [SB 1038]),)
[SB 1078])

Docket No. 03-REN-1078
RPS Proceeding
Re: Staff Workshop

**COMMENTS OF THE CALIFORNIA BIOMASS ENERGY ALLIANCE (CBEA)
ON THE RENEWABLES PORTFOLIO STANDARD PROCEEDING**

March 27, 2003

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INTRODUCTION

The following paper provides the views of the California Biomass Energy Alliance (CBEA) in response to the questions discussed at the Energy Resources Conservation and Development Commission's (Energy Commission) Staff Workshop on Docket No. 03-RPS-1078, "RPS Proceeding", held Tuesday, March 25, 2003.

As an organization representing the interests of over 95% of the owners and operators of the existing solid fuel biomass facilities in the State of California, CBEA appreciates this opportunity to share its views with the Commission in the implementation strategies of Senate Bill 1078 and Senate Bill 1038. CBEA believes that what is structured today in the guidelines for an effective Renewable Portfolio Standard (RPS) will significantly impact the success of the State in achieving its goal of 20 % Renewables by 2017.

SPECIFIC COMMENTS

17. What exactly constitutes an agricultural crop, waste and/or residue?

In promulgating rules for the use of agricultural crop wastes by solid fuel biomass facilities to provide offsets for expected criteria pollutant emissions, the California Air Resources Board (CARB) developed in the early 1980's a table of "Biomass Open Field Burned in California" which listed what fuels power plants could utilize in order to qualify for emissions offsets.¹ A copy of this table is attached hereto, and CBEA proposes that the Energy Commission utilize this list to establish what qualifies as an agricultural crop (i.e., all those biomass types on the list excluding biomass listed under forest management activities), and further, that any biomass wastes or residues that are produced in the growing or processing of these types of agricultural biomass that are either open-burned or otherwise disposed of be acceptable for purposes of the RPS.

¹ "A Procedure to Implement the Provisions of Health and Safety Code Section 41605.5 (AB1223, 1983) Relating to the Determination of Agricultural/Forestry Emission Offset Credits" (6/21/84 Modified 11/84), Table 1.

18. What is the best way for the Energy Commission to certify the amount of agricultural residues or wastes received as fuel for a biomass power plant?

Similar to the Energy Commission's successful implementation of funding to new and existing generating facilities under AB 1890 and SB 90, CBEA recommends that the Energy Commission simply require applicants requesting RPS supplemental payments to warrant that agricultural residues and/or wastes utilized by the facility in the production of its energy met the criteria defined in the RPS implementation language, having tracked over the course of a year the amounts of all fuel types delivered to their facility for combustion.

19. Should the Energy Commission develop a list of approved fuel material or approve fuel material on a case-by case basis?

No. CBEA believes that the Legislature put sufficient specificity into the law for the needs of the RPS program, and no further definition is required.

20. What is the best way for project developers to certify their fuel use to the Energy Commission?

Under federal law (PURPA), an independent electric generating facility can become a Qualified Facility (Qualified Facility) so long as it utilizes a minimum of 75% renewable fuel. That process is managed under a self-certification procedure. Since self-certification is acceptable to the Federal Government, CBEA would argue self-certification should be acceptable to the CEC as to the fact that a plant's fuel comes from sources that are approved under the RPS legislation.

As mentioned previously, numerous facilities throughout the State must also certify that portion of the fuel consumed each year that satisfies the criteria established for the CARB offset protocol rules. If a new biomass facility qualifies for RPS funds and has an offset requirement, it will already be attesting annually to the local Air Quality Management District what agricultural wastes and in what quantities it consumes for fuel.

Should a facility not have an offset requirement, it would be a simple matter to require a facility to keep track of what types and amounts of fuel it uses on at least a monthly basis, using scale tickets/bills of lading, to ensure it is in compliance with the rules of SB 1078 and SB 1038.

21. How should the Energy Commission verify, monitor, and/or enforce meeting this requirement?

CBEA believes that the Energy Commission should require periodic reports from eligible new biomass facilities as to the types and quantities of fuel utilized. Further, just as it has had the rights to do in the enforcement of AB1890 and SB90 funding, Commission staff should be authorized to audit, on a random basis, the fuel records of facilities which receive RPS funds.

22. What other agencies should the Energy Commission work with in developing a certification process for biomass facilities?

As pointed out earlier, a new biomass facility at the minimum will be working with its local AQMD or APCD in establishing the air permits for its operation. Further, depending on the fuels chosen to power the facility, a new biomass plant may be required to file compliance documentation with the Department of Food and Agriculture in order to utilize wood wastes out of infestation or quarantine areas. Finally, should a new biomass plant procure wood wastes directly from forest harvesting operations it manages, it will need to coordinate such efforts with the Department of Forestry and Fire Protection. CBEA believes these agencies would be the best partners for the Energy Commission to work with in developing a certification process for new biomass plants, but only if such a policy is built from a series of “reps and warrants” and spot compliance checks by the Energy Commission, rather than a strenuous series of extensive paperwork and enforcement actions.

23. How should the Energy Commission coordinate with the Department of Food and Agriculture and the Department of Forestry and Fire Protection to ensure that the harvesting requirements for wood sources are met?

CBEA does not see the need for the Energy Commission to usurp the authorities already vested in these other agencies for compliance with existing statutes. The Energy Commission's role should simply be as the authority, which ensures compliance strictly for the needs of the RPS implementation.

All forest-derived fuels are received from one of three sources:

1. Fuel off federal lands harvested according to a contract with the land management agency, with the contract subject to NEPA review.
2. Fuel off private or state lands harvested in accordance with the requirements of the Z'berg-Nejedly Forest Practice Act of 1973.
3. Fuel off small plots of private lands meeting the test for an exemption because they are below minimum size criteria. There are simply no other forest fuels since all private land work must be either exempt due to size of the project or meet Z'berg-Nejedly. In no instance are sizeable trees ever harvested for biomass fuel, since that would be economic folly. In some instances, biomass harvests take place without product recovery, but these are done solely for forest health and fire protection reasons and the bigger trees are left standing. Even these harvest are subject to the above restrictions.

24. Does “biodiesel” qualify as biomass? Is there a standard definition of “biodiesel”?

No, biodiesel does not qualify as a type of solid fuel biomass, and as such, does not fit within the intent of the authors of SB 1078 and SB 1038. CBEA will leave it for others to resolve if a standard definition of this liquid fuel exists. However, if the Energy Commission eventually rules against CBEA's view, CBEA strongly believes a facility utilizing biodiesel should only qualify for RPS funding if (i) the biodiesel is completely derived from California agricultural sources, (ii) has no quantity of petroleum derived diesel in it, and (iii) is produced within the borders of the State, to ensure the full externalities of its qualification as a renewable accrue to those paying its support.

25. How does the Energy Commission certify that biodiesel will be used for electricity generation from stationary sources in California?

Again, CBEA respectfully repeats its view that biodiesel of any sort does not comport with either the language or intent of SB1078 or SB1038.

26. Should the Energy Commission attempt to define borderline technologies or establish a process by which to determine technology eligibility on a case-by-case basis?

In CBEA's view, the technology for solid fuel biomass power generation is a fully mature field. However, it is not unfeasible that new concepts may be presented to the Energy Commission for its consideration. That said, the only role for the Energy Commission would be to ensure that project developers have access to a funding source to promote such a technology, while ensuring the risks of ratepayer funds are appropriately firewalled. As it has done with funding under AB 1890 and SB 90 funding programs, a series of checks and balances should be utilized, including performance bonds, benchmark hurdles, and after-the-fact supplemental payments.